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பஸ் சார்ஜ் குறைந்த பட்ச கட்டணம் இரண்டணாவாக வைக்கும்படி பஸ் முதலாளிகளுக்கு சர்க்கார் உத்திரவிட உத்தேசமுண்டா?

THE HON. SRI V. RAMAIAH : The answer is in the negative.

SRI N. R. THIAGARAJAN : தற்போது பஸ் கட்டணம் 1 மைலுக்கு 4 அணா, 2 மைலுக்கும் 4 அணா, 3 மைலுக்கும் 4 அணா என்று வாங்கப்படுகிறது. குறைந்தபட்சம் 4 மைல் தூரம் வரை 2 அணா என்று வைப்பது நலமல்லவா? அரசாங்கம் இதைப் பரிசீலிக்குமா?

THE HON. SRI V. RAMIAH : இப்போது ஒன்றும் செய்வதாக உத்தேசமில்லை.

MR. SPEAKER : Questions are over.

II.—PRIVILEGE MOTION *RE* BOYCOTT OF GOVERNOR'S ADDRESS BY THE MEMBERS OF THE D.M.K. PARTY IN THE LEGISLATURE.

MR. SPEAKER : Hon. Members are aware that the hon. Member Sri S. Lazar raised a matter of privilege on 11—12—1959. In this connection, I also heard on 16—12—1959 the views of the Leader of the House, the Leader of the Opposition and the Leaders of other Opposition parties. I had reserved my ruling and now I shall proceed to give my ruling.

The hon. Member Sri S. Lazar contended among other things that the boycott of the Governor's Address on 5—12—1959 by the Members of the Assembly belonging to the Dravida Munnetra Kazhagam Party amounted to breach of privilege and therefore should be referred to the Committee of Privileges.

It is now my duty to decide whether a *prima facie* case of breach of privilege has been made out or not. To decide this, I must satisfy myself that it is a matter of recent occurrence and that it has been raised at the earliest possible moment and that it involves a matter of privilege. There is no doubt that the matter is of recent occurrence because the incident occurred on 5—12—1959 and the matter has been raised on 11—12—1959. The first two conditions have therefore been satisfied. Now I have to decide whether the matter involves a question of privilege.

In U. K. Parliamentary Privilege originated in the King's protection of his servants but now it is claimed as an independent right. As originally the weaker body, the Commons had a fierce and prolonged struggle for the assertion of their own privileges not only against the Crown and the Courts but also against the Lords. What originated in the special protection of the King began to be claimed by the Commons as customary rights, and some of these claims in the course of repeated efforts to assert them, have hardened into legally recognised " Privileges ". Parliamentary privileges are the peculiar rights enjoyed by the Parliament

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collectively and by the Members of the House individually. These rights are absolutely necessary for the due execution of the Parliament's powers. They are enjoyed by individual members because the House cannot perform its functions without the unimpeded use of the services of its members and by the House for the protection of its members and the vindication of its own authority and dignity.

Article 194 of the Constitution of India deals with the powers, privileges and immunities of the State Legislatures and their members. It expressly provides for freedom of speech in the Legislature of a State—subject of course to the provision of the Constitution and the rules of procedure of the Legislature—and immunity of the members of the Legislature for anything said or any vote given in the Legislature or any Committee thereof.

It also provides that no person shall be liable in respect of the publication by or under the authority of the House of any report, paper or votes or proceedings. The same article empowers the Legislature to define the other powers, privileges and immunities of the House and of its members and of the Committees of the House. And, it is also provided that until so defined the powers, privileges and immunities will be those of the House of Commons of the Parliament of the United Kingdom and of its members and committees at the commencement of the Constitution. So far neither the Madras Legislature nor any other State Legislature has defined by law the other privileges.

I have examined the issue of privilege raised by the hon. Member Sri S. Lazar in the light of these privileges of the State Legislature. As already stated the Constitution specifically defines two privileges, namely, the freedom of speech in the Legislature and immunity for anything said or done in the Legislature. The matter raised by hon. Member Sri S. Lazar, viz., to boycott of the Governor's Address cannot possibly be brought under any of these two items.

It has to be examined whether it can be brought under the other privileges which though not defined, are the same as those of the House of Commons of the United Kingdom. In the House of Commons some privileges are claimed by the Speaker at the beginning of each new Parliament. They are freedom from arrest, liberty of speech, access to the Royal person and favourable construction of all their proceedings. The boycott of the Governor's Address by a particular group of members cannot be brought under any of the above four items.

The privileges not claimed by the Speaker and which are inherent to the powers of the House are—(1) the right of the House to regulate its own constitution and (2) the power to punish for breach of privilege. Under the first item the House has power to issue writs for the filling up of casual vacancies, to determine

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disputed returns, to determine legal disqualifications and to expel persons who are unfit for membership. In India the Representation of the People Act, 1951, provides for the issue of writs, etc.

Courts of justice have power to punish for contempt of Court. Similarly the House has power to protect its privileges and punish their violation. Any act of omission or commission which obstructs or impedes the House in the performance of its functions or which obstructs or impedes any member or officer of the House in the discharge of his duty or has a tendency directly or indirectly to produce such results is treated as contempt. These can be divided into disrespect to any member of the House by a non-member, disrespect to the House collectively whether committed by a member or any other person and disobedience to orders of the House or interference with its procedure, with its officers in the execution of their duty, or with witnesses in respect of evidence given before the House or a Committee. The boycott of the Governor's Address cannot obviously be brought under the first item, namely, disrespect shown by a non-member to a member. Now I shall examine whether it can come under the other two categories, disrespect to the House and disobedience to the orders of the House. Instances of disrespect to the House and disobedience to the orders of the House by members have been broadly defined as acceptance of bribe to influence a member in his conduct as a member or of any fee, remuneration or reward for anything done by him in his capacity as a Member, publication of any report of or evidence given before Select Committees before they are presented to the House, acceptance of payments for the disclosure of information obtained from other members in regard to matters to be brought before Parliament and giving evidence before any Court or in any other House in regard to debates or proceedings in the House of which he is a member without the permission of the House, and refusal of a member to serve on a Committee of that House when his attendance is made compulsory. The boycott of the Governor's Address cannot ostensibly be brought under any of these conditions.

The hon. Member Sri S. Lazar stated that under Article 168 the Governor was part of the Legislature and under Article 175 of the Constitution, the Governor required the attendance of the Members of the Assembly at the address to be delivered by him on 5—12—1959 and since the Members of the Assembly belonging to the Dravida Munnetra Kazhagam, who had taken oath or made an affirmation under Article 188 that they would bear true faith and allegiance to the Constitution, boycotted the Address, it amounted to contempt of the House.

Now two points arise out of this, namely, whether the Members of the Assembly must attend every meeting of the Assembly and whether the assembling of the members of the Assembly to hear the Governor's Address is a meeting of the Assembly. In the

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United Kingdom, I understand that when the Queen addresses the Members of the House of Commons and the House of Lords it is a meeting of the House. There the presence of the Speaker is sufficient to constitute a meeting of the House.

Now coming to India, I may inform hon. Members that there was provision in the Government of India Act, 1919 also for the Governor-General to address the Central Legislative Assembly. Section 63 (b) stated that the Governor-General shall have the right of addressing the Legislative Assembly and may for that purpose require the attendance of its members. The question whether the Governor-General addressed the Legislative Assembly sitting as a House or the Members only was considered even then and Sir Frederic Whyte, the first President of the Central Assembly was of the view that it was not a meeting of the Assembly. Later in 1936, Sri Sri Prakasa, then a member of the Central Assembly, raised a point of order whether the Address of the Governor-General formed part of the proceedings of the Assembly. The then President of the Central Assembly, Sri Abdur Rahim, ruled that the meeting addressed by the Governor-General was not a meeting of the Assembly but he addressed only the members of the Assembly and not a duly constituted meeting with the President in the Chair, and hence the Governor-General's speech was not part of the proceedings of the Assembly. Article 175 of the Constitution which is relevant to our purpose reads that the Governor may address the Assembly or the Assembly and the Council assembled together and for that purpose require the attendance of members. It is seen that this Article of the Constitution is similar to Section 63 (B) of the Government of India Act, 1919. The view that the Governor does not address a duly constituted meeting of the Assembly is also evident from our Rules of procedure. Rule 4 of the Assembly Rules states that 'at the first meeting of the Assembly after the Governor's Address, a copy of the Governor's Address shall be placed on the table of the House'. If the Governor had addressed a meeting of the Assembly there was no need to place a copy of the address on the table as the speech itself would form part of the proceedings of the House.

Further in 1952, some members interrupted the Governor when he was addressing and then walked out. There was no provision in the Rules to deal with such a situation. In 1951, when the rules of the Assembly were amended a new provision for observing order during the Governor's Address was incorporated. According to this rule (Rule 8) any obstruction or interruption is to be regarded as a gross breach of the order of the House. Because it was considered that no action could be taken under the existing rules this provision was made. It is therefore clear that when Members assemble to hear the Governor's Address it is not a meeting of the Assembly.

Now I shall consider whether a member must attend every meeting of the Assembly and also the meeting to hear the Governor. There is no provision in the Constitution or in the rules of procedure that a member must attend every meeting of the Assembly. Article 190 (4) states that if for a period of sixty days a member of the House is without the permission of the House absent from all meetings thereof, the House may declare his seat vacant. Thus there is nothing in the Constitution to compel a member to attend the Assembly daily. But to do justice to his constituents, a member is without any doubt morally, though not legally, bound to attend the meeting of the House.

When the Governor in the discharge of a Constitutional obligation requires the attendance of the Members to hear his Address, it is no doubt equally a Constitutional obligation on the part of the members to be present and listen to his Address. There cannot however, be any compulsion behind it nor do we go into the motives of every person who is not present to hear the Governor's Address. But the Governor is the head of the Executive as well as a limb of the Legislature and if the Members do not attend to his address when required to do so by him it would amount to showing discourtesy to the highest dignitary in the State. Boycotting such a meeting after publicly announcing the intention to do so is something worse. But these are acts of discourtesy and they have nothing to do with the privileges of the House. Privileges are attached to the House and not to the Governor. In recent times, even in the United Kingdom one praty did not attend the Queen's Address and it was not considered as breach of privilege.

Hon. Members are aware that walk-outs for one reason or another have nowadays become too frequent in Indian Legislatures. These walk-outs are for the purpose of expressing dissatisfaction against the attitude of the Government. After walk-out the members also abstain from attending the meeting for sometime. Madras is no exception to this. The rules of Procedure of the Madras Legislative Assembly do not provide for preventing or for taking action against such walk-outs. Walk-outs by Opposition parties to express their disapproval of the Government's policy have almost become common methods of protest and if they do it peacefully they are not considered as reflections on the House or on the conduct of the Chair. When abstention from Assembly meetings are not against the rules abstention from the Governor's Address cannot be placed on a different footing. The boycott of the Governor's Address does not therefore involve a matter of privilege though it may not be good parliamentary manners.

The hon. Member Sri S. Lazar has stated that the Dravida Munnetra Kazhagam party members have called the Governor a North Indian appointed by North India. Any Indian citizen can be elected as the President of India. Similarly any Indian citizen can be appointed as a Governor. Therefore, to call the Governor

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a North Indian is not in good taste but smacks of bad taste and it certainly does not involve a matter of privilege. Further these words were not uttered in the House when the Governor was addressing the two Houses assembled together. Any such words said outside the Assembly against the Governor cannot be questioned in the House.

The hon. Member Sri S. Lazar has also stated that the speeches of the hon. Members Sri C. N. Annadurai and Sri M. Karunanidhi in the Assembly are also objectionable. A member has freedom of speech in the House, subject of course to the Constitution and the rules of procedure. Members have to observe the conditions laid down in the Rules. If any member transgresses Rule 67 of the Assembly Rules any other member can draw the attention of the Speaker who will deal with the objection appropriately and at the proper time.

Before I give my ruling I would like to invite the attention of hon. Members to the speech of the Prime Minister of India made in the Lok Sabha on 22—2—1954 under similar circumstances when some Members had abstained from the President's Address. The speech runs as follows :—

"Apart from this, there are certain basic things which, I submit, must be borne in mind. If we are to proceed peacefully and democratically there is, under our Constitution, the authority of Parliament; our President who is the symbol of the State, is above party and the rest of it. He may of course, as President in his Address represent what the Government wish to do. It is a different matter. But he is a symbol of the State. There is our Flag; our National Anthem. I am mentioning obvious things. I am mentioning them, and what I say I am not saying by way of complaint but in sorrow; it is a matter of deep grief to me that at the beginning of this session some hon. Members deliberately and ostentatiously kept away when the President addressed the joint session of both Houses of Parliament. I am not going into the merits. But the President is a symbol of the State, of the dignity of the State. And it is not so much here, but in some of our State Assemblies also this is being done with the Governor there, who is also a symbol. It is totally immaterial whether you like the Governor, whether he is beautiful to look at or not so attractive to look at. These are symbols of the State, of the unity of the State. And if we do not respect that symbol we do injury to the conception of the unity of that State. If one party does it and another does it, it may well become a practice for some group or other to act in that way because they do not like something. I do appeal therefore not only to hon. Members here but elsewhere, that these conventions ought to be observed.

I would request the Members of the House to bear with me again if I quote the views expressed by the late Sri Mavalankar who was Chairman of the Conference of Presiding Officers in 1954

when questions relating to the entire Opposition or a party or group stays out as a mark of protest when the Governor comes to Address the Assembly, a party or group stages walk-out when the Governor begins to address and some others rise to raise points of order or otherwise interrupt the proceedings when the Governor is present to deliver his Address :—

"It is now only two or three years since we have had our last elections. It is too early in a wide country like ours to judge as to whether a particular trend is on the increase or decrease. Conventions or parliamentary forms are not settled in a day. They take years and years and perhaps centuries also. We know as to how people used to behave in the English House of Commons 100 years ago, but nobody thought of making any rules about it. So, I should personally think that we should watch the situation. Let us try to create a sort of public opinion; let the persons who do not behave properly, be made to realise that they are doing a wrong thing, by persuasion, by argument, but not necessarily by the rod. Just as in society we observe many rules of conduct simply because the generality of the people observe them, so in all these matters, the best course would be to create a public opinion and a convention.

* * *

A time there was in this country when some people did not recognise the flag. It is within living memory. But the time has now come when nobody disputes the national character of the national flag. Similarly a time may come very shortly—much more shortly than what we may anticipate now—when all the parties will recognise the Head of the State."

These expressions find a genuine echo in my heart and I would appeal to hon. Members that whatever be their political inclinations, let this Legislature set an example by strictly adhering to parliamentary conventions by showing the courtesy due to the Governor as a limb of the Legislature. Finally and in conclusion I am of the opinion that the matter raised by Hon Member Sri Lazar does not involve a question of privilege of the House. I am therefore of the opinion that no *prima facie* case has been made out.

SRI S. LAZAR : Mr. Speaker, Sir, it is an established convention in the Mother of Parliaments, viz., the House of Commons that after such a ruling is given, members are permitted to bring a motion on the floor of the House for discussion. May I know, Sir, whether such a convention obtains in our House? Can any member or myself bring such a motion? If so, will it be in order? I would like to know the correct position from you, Sir.

MR. SPEAKER : I am glad the hon. Member raised that point. I shall answer it.

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When a matter of privilege is raised, the Speaker has to decide whether a *prima facie* case of breach of privilege has been made out or not. If the Speaker holds that a *prima facie* case exists, then any member may move a motion that the matter be referred to the Committee of Privileges or that it be dealt with by the House itself. The Madras Assembly Rules do not provide what should happen if the Speaker holds that no *prima facie* case has been made out.

In the Lok Sabha, to raise a matter of privilege the Speaker's consent is necessary. If the Speaker gives his consent, then the Member can raise the matter and then, if the House permits, the matter can be taken up straightway or referred to the Privileges Committee. If the Speaker does not give his consent, the matter cannot be raised.

Under Rule 186 of the Lok Sabha Rules, a motion shall not raise a question of privilege. It follows that if the Speaker does not give his consent, a privilege motion cannot be raised.

About the House of Commons, what the hon. Member, Sri Lazar has said is right. The position is different there. When a matter of privilege is raised, the Speaker has to decide whether a *prima facie* case of breach of privilege has been made out and whether the matter has been raised at the earliest opportunity. If the Speaker decides that a *prima facie* case of breach of privilege has been made out, then any Member may move that the matter be considered by the House at once or the matter be referred to the Privileges Committee. Even when the Speaker decides that a *prima facie* case of breach of privilege has not been made out, a Member is at liberty to raise the matter on a motion.

In the House of Commons, it is the House that has the power to decide whether there is breach of privilege or not. The Speaker only decides whether the privilege matter can take precedence over other business of the House.

According to Article 194 of the Constitution of India, the powers and privileges of the State Legislature will be the same as those of the House of Commons of the Parliament of the United Kingdom.

It follows that the House alone has the power to decide whether a particular matter is a breach of privilege or not. Though the Madras Assembly Rules do not provide for contingencies when the Speaker rules that no *prima facie* case has been made out, it has to be inferred that a Member can bring the matter by a separate motion.

At the same time this does not seem to apply to the Lok Sabha. In the Lok Sabha, the House itself has framed a rule that a matter of privilege should be raised in a particular manner and that it

cannot be raised by a motion. There the House has delegated its powers of deciding whether a particular matter is a breach of privilege or not, to the Speaker himself. In our Madras Assembly Rules the House has not delegated its power to the Speaker. Perhaps I shall come at a later time to get that power. If the Speaker decides that no *prima facie* case of breach of privilege has been made out, it is open to any Member of the House to bring before the House a motion that this matter be referred to the Committee of Privileges. Then it is for the House to decide. This House has such a right. Of course such a right is not there in Lok Sabha. In Mysore also the House has no such right. But here, in Madras, this House has such a right. We do not have a provision similar to the one in the Rules of the Lok Sabha. So I do not object to any member bringing the matter before the House by means of a motion.

THE HON. SRI C. SUBRAMANIAM : May I make a submission, Sir. No doubt it is true that there is no specific provision in our rules, as to whether a member can bring the matter again before the House by way of motion or not, especially after, you, Mr. Speaker, have given your ruling that no *prima facie* case has been made out. But still, Sir, you are the custodian of the privileges of the House and therefore generally your ruling should be accepted by all Members. But occasions may arise when a Member may not be satisfied with the ruling given by the Speaker. That is again a fundamental privilege which every Member has got. But in a case like this I would respectfully submit to hon. Members that if any hon. Member wants that the matter be brought before the House he should consult at least the Leader of the House. Only when the Leader of the House also feels that a different procedure will have to be adopted, that matter should be brought before the House. I say that we should follow such a convention here so that for everything it should not be necessary for us to bring a motion particularly when the Speaker considers the entire aspect and gives a ruling. I put forward this respectfully for consideration of all members.

MR. SPEAKER : I have no objection.

SRI M. KALYANASUNDARAM : This has developed into a discussion of the procedure. The Hon. Leader of the House has suggested that the matter should come, as an appeal against the rulings of the Speaker, to him, the Leader of the House.

THE HON. SRI C. SUBRAMANIAM : I only said that I should be consulted, before bringing the matter to the consideration of the House.

SRI M. KALYANASUNDARAM : Before Opposition parties bring any motion before the House, there is consultation with the Hon. Leader of the House. We consult each other. We do not bring any motion without consulting the Hon. Leader of the

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House. There is no need for any special mention about this. If you will kindly recollect our discussions at the time of framing the rules, you will see that this point was raised and discussed. The Rules Committee felt that the members should have the right to move a separate resolution even when the Speaker ruled that there was no *prima facie* case of breach of privilege. That is why, I submit, Sir, that it will be better that this House does not take any decision now with regard to the procedure. If procedure is to be defined, I would submit that it could be referred to the Rules Committee, and after proper discussion, we can consider it.

MR. SPEAKER : I have no objection.

THE HON. SRI C. SUBRAMANIAM : Sir, it is not as the Leader of a party, but as the Leader of the House, I made the suggestion. It is open to members to accept it or reject it. It is only a question of creating conventions, and I thought it would be good to make the suggestion. It is not merely as the Leader of the Congress Party, but as the Leader of the entire House I made the suggestion. I think any Leader of the House should function in a responsible manner, particularly when the Hon. Speaker has given a ruling taking into account all aspects and has advised the members. That is the only suggestion I made. It is not as if anybody should be bound by my advice.

MR. SPEAKER : Before the House I have given my ruling. It is only when the hon. Member Sri Lazar asked whether a motion could be moved, I said, according to our rules, he would be entirely right in moving it. Not that he is going to do it. If it is a question of delegating power to the Speaker as in the case of the Lok Sabha, I think I will have to bring it before the Rules Committee. This is a matter which will come up later. I leave the matter entirely to the House. For the present I have given my ruling that a *prima facie* case is not made out. It is open to the House to do as it likes.

III.—STATEMENT BY THE HON. THE FINANCE MINISTER.

THE HON. SRI C. SUBRAMANIAM : The answer given by me on 3rd March 1959 in reply to a supplementary question by Sri A. Govindasamy on starred question No. 523, relating to the contribution made in 1954 and 1955 by the Government to the 'Common Good Fund' of the Tamilnad Non-Gazetted Government Officers' Union is found to require correction. The correct answer is given in the statement [a] placed on the table of the House.

I am sorry for the mistake. The mistake arose because some relief was given by the Non-Gazetted Officers' Association to some of the bereaved families. But, for that the Government have not contributed anything.

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[a] Printed as Appendix III on page 265 infra.